needs. * * * The power to compel, beforehand, cooperation, and thus, it is believed, to make a failure unlikely and a general panic almost impossible, must be recognized, if government is to do its proper work, unless we can say that the means have no reasonable relation to the end."

II.

Because the said Act obviously and manifestly does not deprive the applicant of property or any contractual right or due process of law, but relates to the remedy by which his property and rights may be preserved and secured to him.

The exercise of the police power does not violate vested rights or take property without due process of law.

Barbier v. *Connally*, 113 U. S. 27, 28 L. Ed. 923;

New York & N. E. R. Co. v. *Bristol*, 151 U. S. 566, 38 L. Ed. 269, 14 Sup. Ct. Rep. 437.

"It is likewise thoroughly established in this Court that the inhibitions of the Constitution of the United States upon the impairment of the obligation of contracts, or the deprivation of property without due process or of the equal protection of the laws, by the states, are not violated by the legitimate exercise of legislative power in securing the public safety, health, and morals. The governmental power of self-protection cannot be contracted away, nor can the exercise of rights granted, nor the use of property, be withdrawn from the implied lia-

bility to governmental regulation in particulars essential to the preservation of the community from injury."

New York & N. E. R. Co. v. *Bristol, supra.*

"When the public interest is involved, preferment of that interest over the property interest of the individual, to the extent even of its destruction, is one of the distinguishing characteristics of every exercise of the police power which affects property."

Miller v. *Schoene, State Entomologist,* 276 U. S. 272; 72 L. Ed. 569.

III.

Because by subsequent Act of the General Assembly of the State of South Carolina entitled "An Act to provide for the liquidation of banks or banking institutions after a conservator has been appointed", approved by the Governor of the State of South Carolina 16 May, 1933, and now of force, it was further enacted as follows:

"*An Act*

To Provide for the Liquidation of Banks or Banking Institutions After a Conservator Has Been Appointed.

SECTION 1. Be it enacted by the General Assembly of the State of South Carolina: When the Governor shall conclude, after advising and consulting with the Board of Bank Control, that any bank for which a Conservator has been or hereafter shall be appointed, is insolvent or in imminent danger of insolvency and it is neces-

sary in order to protect the interest of depositors and creditors to liquidate such bank, he shall order the liquidation thereof; and when liquidation shall have been so ordered the same shall be under and by the Conservator appointed for such bank, and shall continue until the liquidation of said bank has been completed. And such Conservator shall be vested with the same powers and duties as receivers of banks under existing laws, except as in his discretion the Governor acting with the Board of Bank Control shall fix or limit the liquidating expenses of such bank or banking institution. The liquidation of all such banks shall be under such rules and regulations as may be prescribed by the Governor after consulting and advising with the Board of Bank Control, and the Conservator shall have the right to apply to a court of competent jurisdiction for direction and instruction on questions arising in the liquidation of any such bank.

SECTION 2. The depositors of any such bank in liquidation shall be authorized by the vote of a majority present at a meeting of such depositors called by such Conservator or order of the Governor after ten days' notice to each depositor by mail, at his last known post office address, to select a committee of not exceeding three depositors to confer and advise with the Conservator and the Board of Bank Control, in the liquidation of said bank. It shall be the duty of the Conservator to call the depositors together for the purpose of electing said committee and he is hereby requested to call said meeting.

SECTION 3. That all appointments of Conservators heretofore made by the Governor by and with the advice of said Board of Bank Control shall be and hereby are ratified and confirmed.

SECTION 4. The term "banks" as used in this Act shall be construed to include cash depositories, building and loan associations and other institutions doing a banking business.

SECTION 4 A. That the terms hereof shall not be applicable to banks, at present, in liquidation under a receivership appointed by the order of Court, and this Act shall not annul, invalidate or remove any Receiver engaged, at present, in the liquidation of any bank.

SECTION 5. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

SECTION 6. This Act shall take effect immediately upon its approval by the Governor.

Approved the 16th day of May, 1933.

I. C. BLACKWOOD,

Governor."

That said Act is in *pari materia* with the Act of 9 March, 1933, and the Acts should be construed together; and it being admitted that a conservator for the said The Central Union Bank of South Carolina has been appointed, and it being urged by the appellant as ground for this appeal that said bank is insolvent, it is manifest that the conservator thereof under the terms of the said Acts is or "shall be vested with the same powers and duties as receivers of banks under existing laws", and that the appellant, while his remedy as provided by previous laws

has been changed, has not by the provisions of the said Act been deprived of his property or property rights, but the same will be protected and preserved by the method provided thereby for the rehabilitation or liquidation of the said bank.

IV.

Because the stockholders' liability, the benefit of which is claimed by the appellant, under the provisions of said Acts will be protected and preserved by the conservator, pursuant to the powers conferred upon him, as effectively as by a receiver acting under the previous provisions of law.

"The Legislature has authority to prescribe and limit the method and manner of enforcing depositors' rights against the banks and the stockholders thereof."

Branchville Motor Company v. *Tilden*, 158 S. C. 90, 155 S. E. 277;

Fischer v. *Chisholm*, 159 S. C. 395, 157 S. E. 139;

Ex parte Love, 158 S. C. 249, 155 S. E. 428;

Graham, Receiver, v. *Berry*, 166 S. C. 277, 164 S. E. 755.

"Contract obligations under a banking corporation charter which is subject to alteration and repeal are not unconstitutionally impaired by the regulation of their business under the police power of the State."

3 *R. C. L.* 380.

Noble State Bank v. *Haskell*, 219 U. S. 104, 55 L. Ed. 112.

Charters in South Carolina are all subject to legislative amendment and repeal.

Const. of 1895, Art. 9, Sect. 2.

Furthermore this is a matter involving alleged rights claimed under the constitution and laws of the State of South Carolina, as to which, under the settled decisions of this Court, the decision of the State Supreme Court is accepted as final and will not be reviewed by this Honorable Court.

For the foregoing reasons, and upon the ground that the questions raised by the appeal herein and on which the decision of the cause depends are so unsubstantial and controlled by settled principles of law as not to require further argument, the appellees present this motion and apply to this Honorable Court to affirm the said judgment and decision of the Supreme Court of the State of South Carolina from which said appeal is taken.

JOHN M. DANIEL,
Attorney General,
J. IVEY HUMPHREY,
Assistant Attorney General,
IRVINE F. BELSER,
Attorneys for Appellees.

COLUMBIA, S. C., 15 June, 1933.